

**THE HONOURABLE SRI JUSTICE T.CH. SURYA RAO
AND
THE HONOURABLE SRI JUSTICE G. CHANDRAIAH**

W.P. No.22817 of 2003

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ORDER: (Per Hon'ble Sri Justice T.CH. Surya Rao)

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In the instant writ petition, the petitioners seek to quash the order dated 19-07-2002 passed by the learned Special Court under the A.P. Land Grabbing (Prohibition) Act, 1982 Hyderabad in I.A. No.149 of 2002 in L.G.A.S.R. No.446 of 2002.

The petitioners wanted to file an appeal assailing the order of the Special Court passed in O.P. No.138 of 1993 holding that the Special Court had no jurisdiction to entertain such an application.

The petitioners are the applicants in O.P. No.138 of 1993. They filed the application against the respondent herein on the premise that respondent grabbed a part of the vacant site belonging to the applicants. That application was heard and decided on merits. Eventually, it was dismissed on the ground that having regard to the nature of the dispute in between the parties *inter se* the Special Court had no jurisdiction to entertain such an application while holding that the Special Court had no jurisdiction. The Special Court also answered the other issues framed in the O.P. having regard to the respective pleas taken by the parties in their pleadings. The appeal was sought to be filed not only assailing the finding that the Special Court had no jurisdiction but also on the findings of other issues on the ground that having held that the Special Court had no jurisdiction, it was

not open to the Special Court to give the other findings on the other issues.

Substantial questions of law appear to have involved in the appeal besides the substantial rights over the party, which is the subject matter of the dispute.

Learned counsel for the petitioners represents that in respect of other parties to the property in dispute, proceedings were initiated under the provisions of the A.P. Buildings Lease and Rent Control Act. That application was allowed by the learned Rent Controller after a full fledged enquiry directing eviction. However, the appellate Court had taken a different view by holding that the respondent perfected his title by means of adverse possession and reversed the order passed by the Rent Controller. A certified copy of the order passed by the appellate Court had been filed as an evidence in O.P. No.138 of 1993. Giving importance to that order, the learned Special Court seems to have passed the present order holding that it had no jurisdiction. Subsequently, it appears that the order passed by the appellate Court was set aside in the revision filed under Section 22 of the Rent Control Act before this Court confirming the order passed by the Rent Controller and the S.L.P. sought to be filed against the order of this Court before the Apex Court which also ended in dismissal. In view of these subsequent events, it is obvious that there is expediency in the interest of justice to adjudicate the matter on its own merits, which were not considered. We see a sufficient cause to condone the delay. After all, by condoning the delay, no

adverse orders being passed on merits in the main case. Parties will be having an opportunity to put forth their respective contentions, that is the reason why, the Courts have been leaning in favour of exercising discretion liberally to condone the delays.

Despite the notice, the respondent chose not to appear before this Court. His name appears in the cause list but none appears before this Court on his behalf.

For the above reasons, the Writ Petition is allowed and the impugned order is hereby set aside. The application filed by the writ petitioners in I.A. No.149 of 2002 stands allowed.

T. CH. SURYA RAO, J

Date: 25-09-2006

G. CHANDRAIAH, J

LSK